

Federal Program Directors' Meeting

September 27, 2016

Welcome

- Agenda:
 - Allocations update
 - Guidance from Title III; CEP
 - Review the proposed regulations on supplement not supplant released on August 29th
 - Other notes or announcements

Guidance on Title III

- Released on Friday – 9/23
 - LEP now EL
 - Move of accountability to Title I
 - Uses of Title III – supplemental
 - Requirements of Title VI of Civil Rights Act
 - Effective LIEP – language instruction education program
 - Types of ELs – SWD, long-term, recently arrived

CEP Guidance Letter

- Details adjusted on reporting, rounding and transferring of students
- Differences between CEP and Provision 2

SNS Regulations

- Proposed regulations
- Open comment period
- ED Fact Sheet
- Federal Register documents

Background

- History of Supplement not Supplant (SNS)
 - Inserted into ESEA in 1970 as result of NAACP-funded report
 - Competing purposes of TI funds:
 - More resources to needy schools – flexible spending (pre-SW)
 - ✓ Specific services to needy students
 - Resources for the academically needy – evolution of SW

NCLB SEC. 1120A. FISCAL REQUIREMENTS

(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS-

(1) IN GENERAL- A State educational agency or local educational agency shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

(2) SPECIAL RULE- No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

SNS under NCLB

- The three test questions:

Test I: *Required* – Is the *program or activity* that the LEA wants to fund required under state, local, or another federal law?

Test II: *Equivalency* – Were state or local funds used in the past to pay for this *program or activity*?

Test III: *Non-Title I Programs* – Are the same *programs or activities* being implemented in other schools that do not receive Title I funds AND are these programs and activities being paid for with state or local funds?

- Exemption for SW schools – supplement the amount of non-federal funds

New ESSA Language (see p. 25)

ESSA SEC. 1118. FISCAL REQUIREMENTS.

(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NONFEDERAL FUNDS.

- (1) IN GENERAL.— A State educational agency or local educational agency shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from State and local sources for the education of students participating in programs assisted under this part, and not to supplant such funds.
- (2) COMPLIANCE.—**To demonstrate** compliance with paragraph (1) a local educational agency shall demonstrate that the methodology used to allocate State and local **funds** to each school receiving assistance under this part ensures that such school receives all of the State and local funds it would otherwise receive if it were not receiving assistance under this part.

ESSA Language (cont.)

(3) SPECIAL RULE.—No local educational agency shall be required to—

(A) identify that an individual cost or service supported under this part is supplemental; or

(B) provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

(4) PROHIBITION.—Nothing in this section shall be construed to authorize or permit the Secretary to prescribe the specific methodology a local educational agency uses to allocate State and local funds to each school receiving assistance under this part.

(5) TIMELINE.—A local educational agency—

(A) shall meet the compliance requirement under paragraph (2) not later than 2 years after the date of enactment of the Every Student Succeeds Act; and

(B) may demonstrate compliance with the requirement under paragraph (1) before the end of such 2-year period using the method such local educational agency used on the day before the date of enactment of the Every Student Succeeds Act

What's New from the Neg Reg Version?

ED responded to comments with similar but more flexible, multiple methodologies:

Requires an LEA to publish its method for distributing funds, using one of 3 methods and by grade span or districtwide (p.26)

1. Weighted formulas (by at-risk category)
2. Averages of personnel and non-personnel funds
3. SEA - determined option
4. PPE

More

- *De minimus* annual variation – 5%
- Exemption for schools with high sub-group populations (e.g., SPED) that receive more state and local funds
- Exemptions for small (<100) schools

More

- Overall flexibilities:
 - Comply by grade span or overall
 - Exclude expenditures meeting “intent and purposes” of Title I
 - Exemptions for single-site LEAs or single schools in a grade span (one HS)
 - Exemptions for funds at LEA level that proportionately benefit all schools

Rules of Construction

Nothing in the regulation should be construed:

- To require the forced or involuntary transfer of school personnel
- To require equalized spending,
- To require a specific methodology, or
- To impact tenure or seniority laws, or collective bargaining or other agreements.

- Points of contention
 - Overall detailing methodologies
 - Negative from Kline (House), Alexander (Senate) – controlling too much State and local funds with leverage of federal dollars
 - "Supplanting the Law and Local Education Authority Through Regulatory Fiat" – hearing 9/21
 - Congressional Research Service report – rebuttal
 - Timeline –
 - By 2 years from enactment (December 2017), either provide compliant methodology for implementation in 2018-19 or plan to adopt it by 2019-20
 - ED: not "rushing into this;" know *some districts may need to reallocate funds*
 - AFT: an unfunded mandate from Washington that exhorts districts to boost their investment in schools with disadvantaged children without identifying or compelling the resources to do so.
 - ED's goal is equitable, not equal, spending

How to determine equitable, not equal, spending?

STEM Academy
600 students
30 teachers
5 STEM experts
No paras



Red Rose Elementary
600 students
40 teachers
K-3 class size < 16
6 paras



ED's Position

- Some people say the Department would be overstepping its authority to have such strong regulations on “supplement, not supplant,” but the historic role of the Department has been to protect traditionally underserved kids and the stated purpose of ESEA is to increase educational equity.
- Access to Title I funds is a civil rights issue and the time has come for millions of children in low-income schools to receive the funding to which they are entitled. According to [Ed Trust's annual Funding Gaps report](#), high-poverty districts receive \$1,200 less per student than low poverty districts. Districts with high percentages of students of color receive on average \$2,000 less than whiter school districts. Such disparities perpetuate even within districts, [with 72% of school districts providing lower teacher salaries in Title I schools](#).

Questions?

Comments

- Submit your questions in the chat box.
 - Explanations – what does it say?
 - Clarifications – what does it mean?
- Submit any comments to the ESSAInbox@azed.gov -
- Watch for ADE's formal response webinar

Other items and questions?

- Reminders –
 - AzEDS data entry
 - Complete your plans in ALEAT
 - Prepare any additional related documents
 - Enter HQT Input